



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/531,909      | 04/19/2005  | Mauro Barbuio        | A-9534              | 3841             |

7590 01/28/2008  
Hoffman Wasson & Gitler  
2461 South Clark Street  
Suite 522 Crystal Center II  
Arlington, VA 22202

|          |
|----------|
| EXAMINER |
|----------|

MACARTHUR, VICTOR L

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3679

|           |               |
|-----------|---------------|
| MAIL DATE | DELIVERY MODE |
|-----------|---------------|

01/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/531,909 | <b>Applicant(s)</b><br>BARBUIO, MAURO |  |
|                              | <b>Examiner</b><br>VICTOR MACARTHUR  | <b>Art Unit</b><br>3679               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4-7 and 9-11 is rejected under 35 U.S.C. 102(b) as being anticipated by Koski (U.S. Patent 5,687,525).

Claim 4. Koski discloses (Figs. 1 and 3-5) an inverted T-beam (75) comprising: two ends (left and right ends of 75) and a central web (central web of 75); at least one (left end of 75) of said beam's ends having an appendix (26) formed from two portions (left portion of 26, right portion of 26) of a different height, a first inner portion (right portion of 26) extending into a second outer portion (left portion of 26), said outer portion having a lesser height and being bent to a V-shape comprising two parts (41 and remaining left portion of 26) forming two legs of said V-shape, a first part (part of remaining left portion of 26) of said two parts being coplanar with the first portion and a second part (41) of said two parts having a free end (free end of 41) and comprising a tooth (47) having a free end (free end of 47), the free end of the tooth substantially facing the end of the first portion, the free end of the second part projecting beyond (upwardly as seen in fig.4) the free end of the tooth, and at least one aperture (18) in the central web having a height substantially corresponding to the height of said outer portion of the appendix.

Claim 5. Koski discloses (Figs. 1 and 3-5) an inverted T-beam (75) comprising a central web (central web of 75) having two ends (left and right ends of 75), an appendix (26) extending from one of said ends, said appendix comprising a first portion (remaining portion of 26) and a second portion (41), together forming a V-shape (41 and remaining left portion of 26), a tooth (47) extending from said second portion, said tooth extending away (diagonally as seen in Fig.4) from said first portion.

Claim 6. Koski discloses the beam of claim 5, further comprising an aperture (aperture resulting from lancing, col.3, ll.60-61) in the central web having a height corresponding to the height of the second portion.

Claim 7. Koski discloses the beam of claim 5, wherein the first portion has a first section (right section of 26) and a second section (left section of 26), the first section having a greater height than the second section, the first section attached to the central web.

Claim 9. Koski discloses the beam of claim 5. The specific method of forming is not germane to the issue of patentability of the device itself. See MPEP § 2113. It is well established by case law that it is the patentability of the product that is to be determined even though such claims are limited and defined by process steps. See *In re Thorpe et al*, 227 USPQ 964 (CAFC 1985). Therefore, the limitation “wherein the tooth is struck from the second portion” (emphasis added) has been given only limited patentable weight. Further, as previously identified, Koski discloses the presence of a tooth (47) on the second portion.

Claim 10. Koski discloses beam of claim 5, wherein the V-shape has the first (41) and second (portion of 26 connected to base of 41) portions joined at a bend (bend at base of 41), the height (in the direction of the bend) of the first and second portions being equal to one another at the bend.

Claim 11. Koski discloses the beam of claim 4, wherein the legs of the V- shape have the height where the legs are connected.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koski (U.S. Patent 5,687,525) as applied to claims 4-7 and 9-11, above, and further in view of Duffy (U.S. Patent 2,927,384).

Claim 2. Koski discloses (Figs. 2-5) a beam as claimed in claim 4, wherein the appendix is secured to the ends of the beam by cinch-like connection (21 as described in col.3, ll.19-21). Koski does not expressly state what type of cinch-like connection should be used, thus motivating one concerned with constructing the Koski assembly to seek out a specific type of cinch-like connection. Duffy (Fig. 4) teaches that rivets are ideal cinch-like connectors (col.2, ll.39-45). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to utilize a rivet, as

taught by Duffy, to construct the Koski assembly since Koski requires the use of such a device and Duffy teaches that rivets are ideal cinch-like connectors.

Claim 8. Koski discloses (Figs. 2-5) a beam as claimed in claim 7, wherein the first section is attached to the central web by cinch-like connection (21 as described in col.3, ll.19-21). Koski does not expressly state what type of cinch-like connection should be used thus motivating one concerned with constructing the Koski assembly to seek out a specific type of cinch-like connection. Duffy (Fig. 4) teaches that rivets are ideal cinch-like connectors (col.2, ll.39-45). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to utilize rivets, as taught by Duffy, to construct the Koski assembly since Koski requires the use of such a device and Duffy teaches that rivets are ideal cinch-like connectors.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koski (U.S. Patent 5,687,525) as applied to claims 4-7 and 9-11, above, and further in view of Brown (U.S. Patent 4,108,563).

Claim 3. Koski discloses a beam as claimed in claim 4, wherein the appendix and beam are of a two piece construction. Brown teaches (col.3, ll.45-50) that one-piece and two-piece constructions are well known to be equivalent alternatives in the art of appendix-beam construction. Therefore, it would have been obvious to one with ordinary skill in the art as a matter of engineering design choice to modify the Koski appendix and beam to be formed in one piece, as taught by Brown, since one-piece and two-piece construction are well known alternatives in the art. Further, the making of what was two pieces into one piece reduces the number of parts.

### ***Response to Arguments***

Applicant's arguments filed November 5, 2007 have been fully considered but they are not persuasive.

Applicant argues that the newly amended claims overcome the prior art. This is not persuasive. The prior art discloses and suggests all of the applicant's newly added claim limitations as is detailed in the reworded rejections above.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (571) 272-7085. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.

/V. M./  
Examiner, Art Unit 3679  
January 29, 2008

/Daniel P. Stodola/  
Supervisory Patent Examiner, Art Unit 3679